

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

IN RE: HOMELAND SECURITY
INVESTIGATIONS SUMMONS NO.
ICE-HSI-MF-2019-00461

Case No. _____

Filed Under Seal – Level I

APPLICATION FOR ORDER COMMANDING GOOGLE, INC.
NOT TO NOTIFY ANY PERSON OF THE EXISTENCE OF SUMMONS

The United States requests that the Court order Google, Inc. not to notify any person (including the subscribers or customers of the accounts listed in the summons) of the existence of the attached summons and related preservation letter for approximately 180 days.

Google, Inc. is a provider of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computing service, as defined in 18 U.S.C. § 2711(2). Pursuant to 18 U.S.C. § 2703, the United States obtained the attached summons, which requires Google, Inc. to disclose certain records and information to the United States. This Court has authority under 18 U.S.C. § 2705(b) to issue “an order commanding a provider of electronic communication service or remote computing service to whom a warrant, summons, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, summons, or court order.” *Id.*

The attached summons was issued in connection with an investigation into targets of an ongoing investigation relating to possession, receipt, and distribution of child pornography. The premature disclosure of the existence of the summons will alert the account subscribers to the pending investigation, which may cause them to destroy or alter evidence, or flee the United States to avoid prosecution. In this case, such an order would be appropriate because the attached summons relates to an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation, and its disclosure may alert the targets to the ongoing

investigation. Accordingly, there is reason to believe that notification of the existence of the attached summons will seriously jeopardize the investigation or unduly delay a trial, including by giving targets an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence, change patterns of behavior, intimidate potential witnesses, or endanger the life or physical safety of an individual. *See* 18 U.S.C. § 2705(b). Some of the evidence in this investigation is stored electronically. If alerted to the existence of the summons, the subjects under investigation could destroy that evidence, including information saved to their personal computers.

Section 2705(b) provides that when the government is not required to notify the subscriber or customer that it is serving process on the provider, then the Court may order the provider not to give notice, provided one of the five risks set forth in § 2705(b) is present. For the reasons listed above, the government has shown that there is reason to believe that notice by the provider would cause one of the enumerated harms. The government is proceeding here using a summons under 18 U.S.C. § 2703(c)(2). Section 2703(c)(3) provides that when the government proceeds under § 2703(c) (*i.e.*, when it is only seeking records of the provider, and not any content of the subscriber or customer), the government is not required to provide notice to the subscriber or customer. Thus, the government has satisfied all the conditions of § 2705(b).

WHEREFORE, the United States respectfully requests that the Court grant the attached Order directing Google, Inc. not to disclose the existence or content of the attached summons for approximately 180 days, until on or about October 25, 2019, except that Google, Inc. may disclose the attached summons to an attorney for Google, Inc. for the purpose of receiving legal advice.

Executed on April 25, 2019.

/s/ Georgiana L. Konesky

Georgiana L. Konesky
Assistant U.S. Attorney
State Bar # 685375
53 Pleasant Street, 4th Floor
Concord, NH 03301

Homeland Security Investigations
275 Chestnut Street
Suite 307
Manchester, NH 03101



U.S. Immigration
and Customs
Enforcement

Cover Sheet

To: Google Inc.
Subpoena Compliance
Custodian of Records
1600 Amphitheater Parkway
Mountain View, CA 94043
844-383-8524

Date: 4/24/2019
Electronic Service Methods:

Fax: (Not available)

E-Mail: USLawEnforcement@google.com

From: Ronald M. Morin

Phone: 603-629-2716

Urgent Action Concurrence FYI

Number of pages including cover: 4

Comments:

Attached is subpoena/summons #: ICE-HSI-MF-2019-00461.

Please respond by May 8, 2019

Child Exploitation Investigation - DO NOT DISCLOSE

1. To (Name, Address, City, State, Zip Code) Google Inc. Subpoena Compliance Custodian of Records 1600 Amphitheater Parkway Mountain View, CA 94043	DEPARTMENT OF HOMELAND SECURITY SUMMONS to Appear and/or Produce Records 19 U.S.C. § 1509
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Summons Number ICE-HSI-MF-2019-00461

By the service of this summons upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A) **APPEAR** before the U.S. Customs and Border Protection (CBP) Officer or U.S. Immigration and Customs Enforcement (ICE) Special Agent named in Block 2 at the place, date and time indicated to testify and give information.
- (B) **PRODUCE** the records (including statements, declarations, and other documents) indicated in Block 3 before the CBP Officer or ICE Special Agent named in Block 2 at the place, date and time indicated.

Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry to ascertain the correctness of entries, to determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure compliance with the laws or regulations administered by CBP and ICE.

Failure to comply with this summons will render you liable to proceedings in a U.S. District Court to enforce compliance with this summons as well as other sanctions.

2. (A) CBP Officer or ICE Special Agent before whom you are required to appear	(B) Date
Name Ronald M. Morin Title Special Agent Address Homeland Security Investigations 275 Chestnut Street Suite 307 Manchester, NH 03101 Telephone Number 603-629-2716 Fax Number (Not available)	May 8, 2019
	(C) Time 9:00 AM

3. Records required to be produced for inspection

Please see attached continuation page.

You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.

Issued under authority of section 509, Tariff Act of 1930, as amended by Pub. L. No. 95-410 (19 U.S.C. § 1509); 44 F.R. 2217; Homeland Security Act of 2002

4. Name of person authorized to serve this summons or any other CBP Officer or ICE Special Agent Ronald M. Morin	5. Date of issue By <u></u> (Signature)
	
If you have any questions regarding this summons, contact the CBP Officer or ICE Special Agent identified in Block 2.	
6. Name, title, address and telephone number of person issuing this summons Name Peter Fitzhugh Title Special Agent In Charge Address Homeland Security Investigations 10 Causeway Street Suite 722 Boston, MA 02222 Telephone Number 617-565-7400	

CERTIFICATE OF SERVICE AND ACKNOWLEDGMENT OF RECEIPT

A. CERTIFICATE OF SERVICE OF SUMMONS		
I certify that I served the summons on the front of this form as follows:		
<input type="checkbox"/> I delivered a copy of the summons to the person to whom it was directed, as follows:	Address or Location	Date
		Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
<input type="checkbox"/> (For corporations, partnerships, and unincorporated associations which may be sued under a common name) <input type="checkbox"/> I delivered a copy of the summons to an officer, managing or general agent, or agent authorized to accept service of process as follows:	Address or Location	Date
		Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Name of person to whom the summons was delivered		
Signature		
Title	Date	

B. ACKNOWLEDGMENT OF RECEIPT		
I acknowledge receipt of a copy of the summons on the front of this form.		
Signature		
Title	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

<p>1. To (Name, Address, City, State, Zip Code)</p> <p>Google Inc. Subpoena Compliance Custodian of Records 1600 Amphitheater Parkway Mountain View, CA 94043</p>	<p>DEPARTMENT OF HOMELAND SECURITY</p> <p>SUMMONS (Continuation)</p> <p>to Appear and/or Produce Records 19 U.S.C. § 1509</p>
<p>Summons Number ICE-HSI-MF-2019-00461</p>	
<p>3. Records required to be produced for inspection (continued)</p> <p>The following applies if checked:</p> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <input checked="" type="checkbox"/> Child Exploitation: This subpoena is in regard to an investigation involving Child Exploitation and/or transmission of Child Pornography via the internet. Please do not disclose/notify the user of the issuance of this subpoena. Disclosure to the user could impede an investigation or obstruct justice. </div>	
<p>Pursuant to an investigation being conducted by the Department of Homeland Security, Homeland Security Investigations, as authorized by Title 18, United States Code, Section 2703(c)(2), please disclose the following information:</p> <p>Subscriber Information: Please provide the name, address, connection records (including IP addresses for all sessions, including the IP address used to set up the account) or records of session times, duration, length of service (including start date) and types of service utilized; telephone or instrument number or other subscriber number or identity, including any temporary assigned network address; means of source of payment for such service (including credit card and/or bank account number) for the following email address:</p> <p>stitches3997@gmail.com</p> <p>09/05/2017 to present</p>	
<p><u>Method of Response:</u></p> <p><u>Preferred:</u></p> <p>Return the requested records in an accessible data file format such as ".XLS", ".CSV", ".TXT", or ".PDF". The data file(s) should be delivered via e-mail to Special Agent Ronald M. Morin at Ronald.M.Morin@ice.dhs.gov.</p> <p>NOTE: The ICE e-mail system limits incoming messages containing file attachments to 10 MB. For larger files send the summons response in multiple e-mail messages.</p> <p><u>Alternates:</u></p> <p>The records should be delivered to Special Agent Ronald M. Morin at U.S. Immigration and Customs Enforcement, Homeland Security Investigations, 275 Chestnut Street, Suite 307, Manchester, NH 03101.</p> <p>If you have questions, please contact Special Agent Ronald M. Morin at 603-629-2716.</p> <p><i>You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.</i></p>	
<p>End of Document</p>	

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ORDER

The United States has submitted an application pursuant to 18 U.S.C. § 2705(b), requesting that the Court issue an Order commanding Google, Inc., an electronic communication service provider and/or a remote computing service, not to notify any person (including the subscribers or customers of the accounts listed in the summons) of the existence of the attached summons and preservation letter for approximately 180 days.

The Court determines that there is reason to believe that notification of the existence of the attached summons will seriously jeopardize the investigation, including by giving targets an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence, and change patterns of behavior. *See* 18 U.S.C. § 2705(b).

IT IS THEREFORE ORDERED under 18 U.S.C. § 2705(b) that Google, Inc. shall not disclose the existence of the attached summons, or this Order of the Court, to the listed subscriber or to any other person before October 25, 2019, unless otherwise ordered by the Court, except that Google, Inc. may disclose the attached summons to an attorney for Google, Inc. for the purpose of receiving legal advice.

Date

United States Magistrate Judge